

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 111

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Jose A. Campos

AN ACT

RELATING TO TAXATION; PROVIDING FOR A MUNICIPAL INCOME TAX DISTRIBUTION; PROVIDING FOR ADJUSTMENTS OF DISTRIBUTIONS TO MUNICIPALITIES; REQUIRING AN ANNUAL REPORT TO THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE REGARDING MUNICIPAL INCOME TAX AND GROSS RECEIPTS TAX DISTRIBUTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-6.4 NMSA 1978 (being Laws 1983, Chapter 211, Section 9, as amended) is amended to read:

"7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS TAX.--

A. Except as provided in Subsection B of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA

.170750.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 1978, equal to the product of the quotient of one [~~and two~~
2 ~~hundred twenty five thousandths~~] percent divided by the tax
3 rate imposed by Section 7-9-4 NMSA 1978 multiplied by the net
4 receipts for the month attributable to the gross receipts tax
5 from business locations:

6 (1) within that municipality;

7 (2) on land owned by the state, commonly known
8 as the "state fairgrounds", within the exterior boundaries of
9 that municipality;

10 (3) outside the boundaries of any municipality
11 on land owned by that municipality; and

12 (4) on an Indian reservation or pueblo grant
13 in an area that is contiguous to that municipality and in which
14 the municipality performs services pursuant to a contract
15 between the municipality and the Indian tribe or Indian pueblo
16 if:

17 (a) the contract describes an area in
18 which the municipality is required to perform services and
19 requires the municipality to perform services that are
20 substantially the same as the services the municipality
21 performs for itself; and

22 (b) the governing body of the
23 municipality has submitted a copy of the contract to the
24 secretary.

25 B. If the reduction made by Laws 1991, Chapter 9,

.170750.1

underscored material = new
[bracketed material] = delete

1 Section 9 to the distribution under this section impairs the
2 ability of a municipality to meet its principal or interest
3 payment obligations for revenue bonds outstanding prior to July
4 1, 1991 that are secured by the pledge of all or part of the
5 municipality's revenue from the distribution made under this
6 section, then the amount distributed pursuant to this section
7 to that municipality shall be increased by an amount sufficient
8 to meet any required payment, provided that the distribution
9 amount does not exceed the amount that would have been due that
10 municipality under this section as it was in effect on June 30,
11 1992.

12 C. A distribution pursuant to this section may be
13 adjusted for a distribution made to a tax increment development
14 district with respect to a portion of a gross receipts tax
15 increment dedicated by a municipality pursuant to the Tax
16 Increment for Development Act.

17 D. If the reduction made by this 2008 act in the
18 distribution pursuant to Subsection A of this section impairs
19 the ability of a municipality to meet its principal or interest
20 payment obligations for revenue bonds outstanding prior to
21 January 1, 2009 that are secured by the pledge of all or part
22 of the municipality's revenue from the distribution made under
23 this section, the municipality may pledge any amount of the
24 distribution pursuant to Section 7-1-6.59 NMSA 1978 to meet any
25 required payment."

.170750.1

underscored material = new
[bracketed material] = delete

1 Section 2. Section 7-1-6.46 NMSA 1978 (being Laws 2004,
2 Chapter 116, Section 1, as amended) is amended to read:

3 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
4 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES
5 DEDUCTION.--

6 A. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 shall be made to a municipality in an amount, subject to
8 any increase or decrease made pursuant to Section 7-1-6.15 NMSA
9 1978, equal to the sum of:

10 (1) for a municipality having a population of
11 less than ten thousand according to the most recent federal
12 decennial census and having per capita taxable gross receipts
13 for the previous calendar year that are less than the average
14 per capita taxable gross receipts for all municipalities for
15 that same calendar year:

16 (a) the total deductions claimed
17 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
18 from business locations attributable to the municipality
19 multiplied by the sum of the combined rate of all municipal
20 local option gross receipts taxes in effect in the municipality
21 for the month plus one ~~[and two hundred twenty-five~~
22 ~~thousandths]~~ percent plus an additional two hundred twenty-five
23 thousandths percent if a distribution is made to the
24 municipality pursuant to Subsection A of Section 7-1-6.59 NMSA
25 1978; and

.170750.1

underscored material = new
[bracketed material] = delete

1 (b) the total deductions claimed
2 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers
3 from business locations attributable to the municipality
4 multiplied by the sum of the combined rate of all municipal
5 local option gross receipts taxes in effect in the municipality
6 for the month plus one [~~and two hundred twenty-five~~
7 ~~thousandths~~] percent plus an additional two hundred twenty-five
8 thousandths percent if a distribution is made to the
9 municipality pursuant to Subsection A of Section 7-1-6.59 NMSA
10 1978; or

11 (2) for a municipality not described in
12 Paragraph (1) of this subsection:

13 (a) the total deductions claimed
14 pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers
15 from business locations attributable to the municipality
16 multiplied by the sum of the combined rate of all municipal
17 local option gross receipts taxes in effect in the municipality
18 on January 1, 2007 plus one [~~and two hundred twenty-five~~
19 ~~thousandths~~] percent plus an additional two hundred twenty-five
20 thousandths percent if a distribution is made to the
21 municipality pursuant to Subsection A of Section 7-1-6.59 NMSA
22 1978; and

23 (b) the total deductions claimed
24 pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers
25 from business locations attributable to the municipality

.170750.1

underscored material = new
[bracketed material] = delete

1 multiplied by the sum of the combined rate of all municipal
2 local option gross receipts taxes in effect in the municipality
3 on January 1, 2007 plus one [~~and two hundred twenty-five~~
4 ~~thousandths~~] percent plus an additional two hundred twenty-five
5 thousandths percent if a distribution is made to the
6 municipality pursuant to Subsection A of Section 7-1-6.59 NMSA
7 1978.

8 B. The distribution pursuant to Subsection A of
9 this section is in lieu of revenue that would have been
10 received by the municipality but for the deductions provided by
11 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall
12 be considered gross receipts tax revenue and shall be used by
13 the municipality in the same manner as gross receipts tax
14 revenue, including payment of gross receipts tax revenue bonds.

15 C. For the purposes of this section, "business
16 locations attributable to the municipality" means business
17 locations:

- 18 (1) within the municipality;
- 19 (2) on land owned by the state, commonly known
20 as the "state fairgrounds", within the exterior boundaries of
21 the municipality;
- 22 (3) outside the boundaries of the municipality
23 on land owned by the municipality; and
- 24 (4) on an Indian reservation or pueblo grant
25 in an area that is contiguous to the municipality and in which

.170750.1

underscored material = new
[bracketed material] = delete

1 the municipality performs services pursuant to a contract
2 between the municipality and the Indian tribe or Indian pueblo
3 if:

4 (a) the contract describes an area in
5 which the municipality is required to perform services and
6 requires the municipality to perform services that are
7 substantially the same as the services the municipality
8 performs for itself; and

9 (b) the governing body of the
10 municipality has submitted a copy of the contract to the
11 secretary.

12 D. A distribution pursuant to this section may be
13 adjusted for a distribution made to a tax increment development
14 district with respect to a portion of a gross receipts tax
15 increment dedicated by a municipality pursuant to the Tax
16 Increment for Development Act."

17 Section 3. A new section of the Tax Administration Act,
18 Section 7-1-6.59 NMSA 1978, is enacted to read:

19 "7-1-6.59. [NEW MATERIAL] DISTRIBUTION TO MUNICIPALITIES--
20 INCOME TAX.--In addition to any other distribution made to each
21 municipality pursuant to the Tax Administration Act, a
22 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
23 to each municipality in an amount equal to the greater of:

24 A. the amount, subject to any increase or decrease
25 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the

.170750.1

underscored material = new
[bracketed material] = delete

1 product of the quotient of two hundred twenty-five thousandths
2 percent divided by the tax rate imposed by Section 7-9-4 NMSA
3 1978 multiplied by the net receipts for the month attributable
4 to the gross receipts tax from business locations:

5 (1) within that municipality;

6 (2) on land owned by the state, commonly known
7 as the "state fairgrounds", within the exterior boundaries of
8 that municipality;

9 (3) outside the boundaries of any municipality
10 on land owned by that municipality; and

11 (4) on an Indian reservation or pueblo grant
12 in an area that is contiguous to that municipality and in which
13 the municipality performs services pursuant to a contract
14 between the municipality and the Indian tribe or Indian pueblo
15 if:

16 (a) the contract describes an area in
17 which the municipality is required to perform services and
18 requires the municipality to perform services that are
19 substantially the same as the services the municipality
20 performs for itself; and

21 (b) the governing body of the
22 municipality has submitted a copy of the contract to the
23 secretary; or

24 B. one-twelfth of an amount equal to two hundred
25 seventy-five thousandths percent of the adjusted gross income

.170750.1

underscored material = new
[bracketed material] = delete

1 reported pursuant to the Income Tax Act by residents of the
2 municipality for taxable years beginning on or after January 1
3 in the taxable year two years prior to the calendar year in
4 which the distribution is being made; provided that "adjusted
5 gross income reported" does not include adjusted gross income
6 reported on returns filed after October 15 of the calendar year
7 following that taxable year."

8 Section 4. [NEW MATERIAL] REPORT TO REVENUE STABILIZATION
9 AND TAX POLICY COMMITTEE.--The secretary of taxation and
10 revenue, the secretary of finance and administration and the
11 executive director of the New Mexico municipal league shall
12 report annually to the revenue stabilization and tax policy
13 committee the distributions made in the most recent fiscal year
14 or calendar year to the municipalities pursuant to Sections
15 7-1-6.4 and 7-1-6.59 NMSA 1978 and any recommendations for
16 changes in the distribution formulas or revenue sources.

17 Section 5. TEMPORARY PROVISION.--For calendar year 2009,
18 the secretary of taxation and revenue shall develop a method of
19 determining as accurately as practicable the site of residence
20 of income tax payers for purposes of determining the
21 distribution to each municipality pursuant to the provisions of
22 Section 7-1-6.59 NMSA 1978.

23 Section 6. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is January 1, 2009.

25 - 9 -